

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 3532 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

STANLEY W. WASHBURN
S.S.A. No.

PRECEDENT
BENEFIT DECISION
No. P-B-318

FORMERLY BENEFIT DECISION No. 3532
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The above-named claimant on June 3, 1946, appealed from the decision of a Referee (R7195-37671-46) which held that the claimant was disqualified for benefits under Section 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) of the Unemployment Insurance Code] because he had refused an offer of suitable employment without good cause. In order to obtain additional evidence the California Unemployment Insurance Appeals Board on September 19, 1946, remanded this case to a Referee for further hearing. Such hearing was held on October 3, 1946, and a transcript of the evidence obtained has been referred to this Appeals Board for consideration.

Based on the record before us, our statement of fact, reason for decision and decision are as follows:

STATEMENT OF FACT

Prior to filing his claim, the claimant was last employed in San Francisco for one week as a laborer dismantling a ship at a wage of \$1.21 an hour. He previously had worked approximately one year as a warehouse laborer. On October 22, 1945, he filed a claim for benefits and registered for work as a warehouseman in the San Francisco office of the Department of Employment. He was subsequently employed for a few days as a cannery

laborer in Albany, but voluntarily terminated this employment because of dissatisfaction with the dormitory housing provided. He reopened his claim for benefits on November 5, 1945.

On November 13, 1945, the claimant was offered reemployment as a cannery worker at ninety-five cents per hour with higher rates for overtime. The claimant refused the offered employment and on December 28, 1945, the Department issued a determination disqualifying the claimant from benefits for the five-week period from December 24, 1945, through January 27, 1946, on the ground that he had refused suitable employment without good cause within the meaning of Section 58(a)(4) of the Unemployment Insurance Act [now section 1257(b) of the code]. On January 7, 1946, the Department issued an amended determination which removed the disqualification, based on information to the effect that in order to work at this plant the claimant would be required to resign from the warehousemen's union and join the cannery workers' union. On appeal by the employer, a Referee reversed the determination and disqualified the claimant for the period December 24, 1945 to January 27, 1946.

Although duly notified of the time and place of hearing, the claimant did not appear at the initial hearing in this case. It was established by the testimony that both the warehousemen's union to which the claimant was presumed by the Department to have belonged, and the cannery workers' union which he refused to join, were members of the American Federation of Labor, and that the claimant would have found no objection to his maintaining membership in both unions had he cared to do so.

It was further noted that in registering for work with the United States Employment Service, the claimant had indicated that he had no union affiliation. This fact was verified by the claimant's statement in his appeal to this Board and by his testimony at the second hearing.

When the claimant first was employed by the cannery, workers who lived in the dormitories were allowed to work on union permit, but at the time of the offer of

reemployment, workers were being hired on a weekly basis with the requirement that they join the union within ten days. This the claimant refused to do, stating that he had never belonged to a union and did not wish to work where union membership was required. He further stated that he refused the offered work because he would have to commute to work from San Francisco at a cost of forty cents per day. The Department representative testified that the monthly fare for commuters was \$6.50; and the employer representative testified that adequate public transportation was available and that at least thirty percent of his employees normally commute from San Francisco or equally distant localities.

REASON FOR DECISION

We previously have held that the requirement that a claimant join a bona fide labor union is not good cause for the refusal of an offer of employment which is otherwise suitable (See Case No. 1297-3867). The union involved in this case was a bona fide labor union, and in conformity with our prior decisions we hold that the fact that union membership was required did not constitute good cause for the claimant's refusal of the offered employment.

The claimant's only other objection to the work involved the cost of transportation. However, the testimony indicates that commuting to the employer's plant from San Francisco or other equally distant towns is a customary procedure in the locality, and the cost of commuting was not so great as to render the employment unsuitable. Under the facts and circumstances of this case, it is our opinion that the work offered the claimant was suitable employment under Section 13(a) of the Act [now section 1258-1259 of the code], and that the claimant did not have good cause for refusing the offer within the meaning of Section 58(a)(4) of the Act [now section 1257(b) of the code].

The record indicates, however, that the Referee incorrectly held that the disqualification period was from December 24, 1945, to January 27, 1946, instead of a period beginning with the week in which the cause of disqualification occurred, as provided by Section 58(b) of the Act [now section 1257(b) of the code], namely, November 13, 1945.

DECISION

The decision of the Referee is modified. The claimant is held to have refused an offer of suitable employment without good cause on November 13, 1945, and is disqualified for benefits for the week in which the refusal occurred and for the four weeks which immediately follow that week.

Sacramento, California, February 6, 1947.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

TOLAND C. McGETTIGAN, Chairman

MICHAEL B. KUNZ

HIRAM W. JOHNSON, 3rd

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 3532 is hereby designated as Precedent Decision No. P-B-318.

Sacramento, California, May 11, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT